Remarks

Claims 1-75 are canceled with this response. Claims 76-83 are newly provided. Applicant earnestly believes that the newly provided claims (1) do not introduce any new matters and (2) fall well within the imposed restriction requirement of both the group and the species. One a side note, Applicant would like to point out that there is a typographical error in elected species 4. The compound is poly(vinylidene fluoride-co-hexafluoropropylene).

Claims 11-56 are objected to under 37 CFR 1.75(c) for being in improper form because multiple dependent claim 11 should refer to other claims in the alternative. Applicant has canceled claims 11-56, rendering the objection moot.

Claims 1, 2, 7 and 9 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1, 2, 6 and 8 of co-pending Application No. 10/957,022. Applicant acknowledges the rejection and will defer the filing of a terminal disclaimer until the examination of the newly presented claims.

Claims 1-3 and 9 are rejected under 35 USC § 102(b) as being anticipated by Hijlkema et al. (US Publication no. 2002/0143382). Claims 1-3 and 9 have been canceled rendering the rejection moot. With respect to newly presented claim 76, first, Hijlkema fails to teach "providing a stent having a coating comprising a polymer and a drug, the polymer having (1) a glass transition temperature below room temperature and (2) a shore hardness of 60A to 80D or 80A to 60D." Hijlkema, in paragraph [0027] teaches coating polymers "could include STBS polymers (styrene-isobutylene-styrene) and any other suitable polymers." "STBS" does not have

a single glass transition temperature but, rather, has a separate Tg for each block and the polystyrene block has a Tg of approximately 95 deg. C.

Second, Hijlkema fails to teach "temperature below room temperature," as recited by claim 76. The reference teaches the temperature being "close to its glass transition temperature" ([0020]) or "approximately 20 deg. Celsius above the glass transition temperature" ([0030]).

Third, Hijlkema fails to teach increasing the shore hardness of the polymer by 10 to 50 percent, as recited by claim 76. Although the reference teaches increasing the hardness of the coating, it fails to provide any indication what-so-ever to what extent the coating needs be hardened.

With respect to the dependent claims 77, 78, 79, and 80 the reference fails to teach the temperature being below the glass transition temperature; the temperature being below -30 deg. C.; the temperature being between -60 deg. C. and room temperature; and the temperature being between room temperature and the glass transition temperature. Moreover, Hijlkema fails to teach the claimed polymers and drugs of claims 82 and 83.

Finally, the secondary references cited by the Examiner fail to cure the deficiencies of claim 76 with respect to Hijlkema. Accordingly, Applicant earnestly believes that claim 76 is patentably allowable over all the references cited by the Examiner.

CONCLUSION

Withdrawal of the rejections and allowance of the claims are respectfully requested. **If the Examiner has any suggestions or amendments to the claims to place the claims in condition for allowance, applicant would prefer a telephone call to the undersigned attorney for approval of an Examiner's amendment.**

The undersigned authorizes the Examiner to charge any fees that may be required or credit of any overpayment to be made to Deposit Account No. **07-1850**. If the Examiner has any questions or concerns, the Examiner is invited to telephone the undersigned attorney at (415) 954-0315.

Date: May 18, 2009

Squire, Sanders & Dempsey L.L.P.
One Maritime Plaza, Suite 300
San Francisco, CA 94111
Telephone (415) 393-9885
Facsimile (415) 393-9887

Respectfully submitted,

/RPA/

Robert P. Auerbach
Reg. No. 46,525